IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION NO.3 OF 2004
IN
SUIT NO.843 OF 1996

The Board of Trustees
of the Port of Bombay ..Petitioner.
(Orig.Plaintiff)

Vs.

M/s.Fair Heaven Plastics
& Chemicals Pvt. Ltd.
& Anr. ..Respondents.
(Ori.Defendants)

Mr.U.J.Makhija with Mr.K.J.Gandhy i/b.M/s.Mulla & Mulla for the Petitioner.

None for the Respondents.

CORAM : S.J. VAZIFDAR, J.
DATED : 5TH OCTOBER, 2004

P.C. :

The Petitioner seeks a review of my order and judgment dated 29.9.2003. A decree was passed against Defendant No.1. I however did not pass a decree against Defendant No.2 on the ground that there was nothing to suggest that Defendant No.2 is liable.

2. Mr.Makhija, the learned counsel appearing on behalf of the Petitioner invited my attention to the

fact that there are inter-alia in paragraphs 4 and 10 the plaint categorical averments which would, if accepted/established, foist liability on Defendant No.2 in view of the provisions of section 2(O) of the Major Port Trusts Act, 1963.

3. I have perused the plaint. Mr.Makhija's submission is well founded. The order requires to be reviewed. I am not however inclined at this stage to pass a decree against Defendant No.2. The Plaintiff may apply for the same upon the suit being restored to file against Defendant No.2.

4. In the circumstances, the Review Petition is made absolute in terms of prayer (a) except the portion bracketed in red.

5. Suit to be placed on board for want of written statement against Defendant No.2 as per its date of original file.

Parties to act on an ordinary copy of this order duly authenticated by the Chamber Registrar/Court Stenographer.